U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 34264094

Date: OCT. 15, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. 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 the Petitioner had not established eligibility for a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal. The matter is now before us on 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). 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, the Petitioner contests the correctness of our prior decision. In support of the motion, the Petitioner relies on *Matter of Chawathe* in arguing that we did not consider the totality of the evidence regarding the national importance of the Petitioner's proposed endeavor according to the requirements in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). She refers to her previously submitted personal statement and personal training plan and reiterates arguments made below that the subject matter of her endeavor, personal fitness, aligns with national health initiatives, and that her endeavor would have national reach because she would train others to deliver health results for her own clients. The Petitioner contends that our decision disregarded the expert opinion provided by A-R-, a university professor who affirmed the economic benefits of the Petitioner's work and that her programs would contribute to anti-obesity efforts.

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. We conclude that the Petitioner has not established that our previous decision was incorrect. First, as we explained in the appeal dismissal, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. Next, we find the Petitioner's assertion regarding our review of the letter in the record from A-R- unavailing. Rather than disregarding this document, our decision found that the letter did not support the claim of the national importance of the Petitioner's proposed endeavor, as it focused on the impact of the Petitioner's clients rather than a broader impact commensurate with national importance, as contemplated in *Dhanasar*. *Id.* at 893. While the Petitioner claims our decision did not consider the totality of the evidence, she does not elaborate this claim or explain how an alternate analysis of the record would have established her eligibility. Overall, the Petitioner has not provided evidence in support of her argument that we applied the *Dhanasar* framework incorrectly in her case.

To sum, on motion to reconsider, 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. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

**ORDER:** The motion to reconsider is dismissed.