U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39508712

Date: OCT. 21, 2025

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).

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (national interest waiver), concluding that the Petitioner did not establish eligibility for the EB-2 immigrant classification or a national interest waiver. SCOPS dismissed a combined motion to reopen and reconsider, and we dismissed the appeal and two subsequent combined motions to reopen and reconsider. The matter is before us on a third 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). 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

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). Therefore, we will only consider new evidence to the extent that it pertains to our latest decision dismissing the second combined motion to reopen and reconsider. Here, the Petitioner submits a brief that generally contends that she is eligible for a national interest waiver. Although the Petitioner provides a brief and evidence, she does not present new facts to establish that we erred in dismissing the prior combined motion.

On motion, the Petitioner contends that she established a new business in August 2023 that is operational and profitable, and provided documentation about this business. She states that this

evidence demonstrates the "venture's success and the positive expectations for the company's continued growth." In response to SCOP's finding of a material change of the proposed endeavor, the Petitioner asserts that no material change occurred, but rather it was an "expansion of tourism services offered through a company." The Petitioner also submits documentation on her education and professional experience.

The evidence includes previously submitted documents related to her claim that she is eligible for the underlying EB-2 classification and for a national interest waiver. The Petitioner has not demonstrated that our prior dismissal contained a factual or legal error in the analysis of the evidence. Rather, the Petitioner reiterates prior arguments and does not show that we erred in our analysis of the evidence present at the time of our prior decision.

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. 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. The Petitioner cannot meet the requirements of a motion to reconsider by broadly disagreeing with our conclusions; the motion must demonstrate how we erred as a matter of law or policy. *See Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (finding that a motion to reconsider is not a process by which the party seeks reconsideration by generally alleging error in the prior decision). Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

Although the Petitioner has submitted documentation in support of the motion to reopen, she has not established her eligibility. 8 C.F.R. § 103.5(a)(2). 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. 8 C.F.R. § 103.5(a)(3). In accordance with 8 C.F.R. § 103.5(a)(4), the combined motion will therefore be dismissed.

ORDER: The motion to reopen is dismissed.

FURTHER 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.