U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33564236

Date: SEP. 04, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a dentist, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, 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 did not establish eligibility for the requested national interest waiver. 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.

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). We explained that the record did not establish the broader implications of her work as a dental surgeon would extend beyond her future employer(s) or patients to impact the dental industry more broadly at a level commensurate with national importance contemplated in *Dhanasar*. *Id.* Additionally, we concluded that the Petitioner had not shown her endeavor had a significant potential to employ U.S. workers or otherwise result in substantial positive economic effects discussed in *Dhanasar. Id.* at 890. Finally, we reserved the Petitioner's appellate arguments regarding her eligibility under *Dhanasar's* second and third prongs, as considering them would have served no meaningful purpose. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-,* 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

On motion, the Petitioner generally disagrees with our prior decision, asserting that we misinterpreted or misapplied legal principles and erroneously applied laws and service policy. As such, the Petitioner asserts that a thorough review of the legal and procedural aspects of her petition considering "relevant immigration statutes, regulations, and precedent decisions" is necessary. Notably, however, she does not identify how we misapplied the law in our prior decision, or what precedent decisions support reconsideration. And, beyond disagreeing with our ultimate decision to dismiss her appeal, the Petitioner does not acknowledge our conclusions regarding her proposed endeavor, nor explain how we erred in those conclusions.

Here, because the Petitioner has not demonstrated how we erred as a matter of law or policy, her motion does not meet the requirements of a motion to reconsider under 8 C.F.R. § 103.5(a)(3). *See Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (confirming that a person cannot satisfy the requirements of a motion to reconsider by generally alleging error in the prior decision, rather the filing party "must specify the factual and legal issues" that were decided in error). Consequently, we have no basis for reconsideration of our decision, and the Petitioner's motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

The Petitioner's appeal therefore remains dismissed, and her underlying petition remains denied.

ORDER: The motion to reconsider is dismissed.