U.S. Citizenship and Immigration Services

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

In Re: 39318353

Date: SEP. 16, 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).

Service Center Operations (SCOPS) denied the petition and we dismissed a subsequent appeal. Further, we dismissed three subsequent motions to reconsider. The matter is now before us on a fourth 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). 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 asserts that the fault in SCOPS' decision lies in what she characterizes as "material errors and omissions" that compromised a fair evaluation of the proposed endeavor. The Petitioner further contends that, in dismissing the appeal, the AAO did not remedy these deficiencies, applied an improper and elevated standard of review, and adopted and affirmed the denial decision without directly addressing the specific arguments she presented on appeal.

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). Here, the Petitioner's contentions in the motion focus on perceived deficiencies in the initial denial decision and the subsequent dismissal of the appeal instead of the previous decision, the third 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).

We also point out that the Petitioner contests the correctness of our dismissal of the appeal asserting that it directly contradicts *Dhanasar*. The Petitioner states that we imposed a higher standard of review of the submitted business plan. In support of this argument, the Petitioner focuses on language in *Dhanasar* specific to the proposed endeavor's "substantial merit" which states: "Evidence that the endeavor has the potential to create a significant economic impact may be favorable but is not required, as an endeavor's *merit* may be established without immediate or quantifiable economic impact." *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) (emphasis added). Therefore, this argument is not specific to the issue of national importance as discussed in our decision dismissing the appeal and subsequent motions.

Further, the Petitioner claims our decision dismissing the appeal was incorrect in requiring "specific breakdowns and immediate measurable outcomes" in the submitted expert opinion letter. However, the appeal dismissal did not make this statement or require such evidence.

As noted, 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).

**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.