U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39338087

Date: SEP. 25, 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, concluding that the Petitioner did not establish that a waiver of the required job offer, and thus of a 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). 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 submits a brief and contends that we "misapplied" prong one of *Matter of Dhanasar*. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889-90 (AAO 2016). The Petitioner also asserts that we applied a heightened evidentiary standard inconsistent with law and we erred in reviewing only the first prong of *Dhanasar* framework without addressing prongs two and three.

Most of the Petitioner's arguments on motion substantially reiterate claims previously raised on appeal. A motion to reconsider is not a mechanism for simply reasserting prior contentions or expressing disagreements with our conclusion. The Petitioner's contentions in her current motion merely 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) (providing that a motion to reconsider is not a process by which a party may submit, in essence, the same brief already submitted and seek reconsideration by generally alleging error in a prior decision). Instead, it must show that the prior decision was legally or factually erroneous based on precedent or controlling law. The Petitioner has not done so here.

In our prior decision, we considered the Petitioner's evidence relating to the claimed national importance of the endeavor. The Petitioner maintains that her evidence demonstrated that the proposed endeavor would have broad implications beyond the immediate location of the work. The decision did not dismiss the endeavor on the basis of geographic location. Rather, we concluded that the Petitioner's evidence did not demonstrate a broader impact rising to the level of national importance as required under the first prong of *Dhanasar*. The Petitioner has not identified a misapplication of law or policy in that determination.

The Petitioner asserts we imposed a heightened burden of proof by "effectively requiring the Petitioner to demonstrate conclusive, guaranteed national outcomes." While the Petitioner asserts that she has provided sufficient evidence to demonstrate her eligibility for a national interest waiver, she does not further explain or identify a specific instance in which we applied a standard of proof other than the preponderance of evidence in denying the petition. Our prior decision expressly applied the preponderance of evidence standard, the correct legal standard in these proceedings. A disagreement with the weight assigned to the evidence does not establish legal error.

The Petitioner argues we erred in addressing only the first prong of *Dhanasar*. As explained in our prior decision, a failure to satisfy one prong is dispositive, and we are not required to reach the remaining prongs once the Petitioner has not established eligibility under the first prong. We are not required to address the remaining *Dhanasar* prongs to render a decision as the determination that she did not satisfy prong one rendered her ineligible for the requested benefit. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision). The Petitioner has not shown that this approach is contrary to law or policy.

On motion, the Petitioner states that we "disregarded probative and well-substantiated economic projections, labor market analyses, and expert testimony." However, we specifically explained why the submitted evidence, including the business plan and expert opinion letter, were not sufficient to establish the proposed endeavor's national importance.

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.

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.