U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34101771

Date: SEP. 26, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a computer engineer and IT consultant, 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).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish that the Petitioner is eligible for the requested national interest waiver. We dismissed a subsequent appeal. The matter is now before us on combined motions 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 combined motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

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 (the dismissal of the appeal). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

In our prior 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, although we agreed that the Petitioner's endeavor of providing cybersecurity services to financial companies is substantially meritorious, the endeavor is not nationally important as contemplated in *Dhanasar*. *Id*. And we determined that the Director did properly consider the evidence under a preponderance of the evidence standard. We also evaluated the Petitioner's

assertions and evidence establishing the importance of the cybersecurity field, including various industry articles and reports, and explained that, because the various articles and publications did not discuss the Petitioner or her specific endeavor, they did not establish the prospective impact of her endeavor would rise to the level of national importance as contemplated in *Dhanasar*. *See id.* (explaining the determination of national importance "focuses on the specific endeavor that the foreign national proposes to undertake"). Moreover, we agreed with the Director that the record did not establish the Petitioner's endeavor would result in substantial positive economic effects or otherwise result in broader implications to the field commensurate with national importance. *See Dhanasar* at 889-890.

On motion, the Petitioner submits a brief with no new evidence and asserts that our dismissal "negates certain material factors present on argument that serve to demonstrate that [the Director] abused their discretion" in denying the underlying petition. As an example of this, the Petitioner claims that we erred in concluding that the Petitioner relied on the importance of her industry, stating that the industry articles and reports "not only serve[] as evidence highlighting the importance of [her] work for the United States but also reflect[] her strong connection to the endeavor." Yet, as stated, the articles and reports do not discuss the Petitioner's specific endeavor, but rather show the importance of her field and occupation. While industry articles and reports may provide important background information on the Petitioner's industry, she has not established that her specific work within the industry has national importance.

The Petitioner also claims that we ignored her assertions relating to the broader economic impact resulting from her employment of U.S. workers. Yet, our decision did address these claims and explained that, although *Dhanasar* does not specify a specific number of U.S. workers that should be hired, a petitioner should still establish that the substantially positive economic effects claimed, for example through staffing levels or business activity, would rise to the level of national importance contemplated in *Dhanasar*. On motion, the Petitioner does not explain how we erred in this determination, nor does she establish that her *specific* endeavor will result in broader economic impact. Rather, the Petitioner continues to rely on claimed ripple effects based on the operation of her business within the cybersecurity field. While any basic economic activity has the potential to positively impact a local economy, the Petitioner has not demonstrated how the economic activity directly resulting from her proposed endeavor would rise to a level commensurate with national importance. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

And the Petitioner claims that we erred by not acknowledging that financial industries have already adopted her protocols, which have led to a decrease in data breaches, establishing that she has already demonstrated a broader impact to her industry. Yet, the Petitioner does not elaborate on how the limited benefit provided to these institutions resulted in broader implications to her field. Additionally, the Petitioner does not overcome our determination relating to the limited prospective impact of her specific endeavor under *Dhanasar's* first prong or show that our determination was erroneous.

For the reasons discussed, we conclude that the Petitioner has not established new facts relevant to our appellate decision that would warrant reopening of the proceedings, nor has she shown that we erred as a matter of law or policy. Our prior decision properly analyzed the Petitioner's assertions, which she again makes on motion. 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). Consequently, we have no basis for reopening or reconsideration of our decision, and the combined motions will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.