U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29201944

Date: DEC. 05, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, a finance manager, 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 EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish her eligibility for the requested national interest waiver under the three-prong framework set forth in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). We dismissed the Petitioner's appeal of that decision and have dismissed four subsequent combined motions to reopen and reconsider. 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 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).

On motion, the Petitioner submits a brief and a short, signed statement dated June 26, 2023, in which she generally addresses the national importance of her proposed endeavor to work as a finance manager in the United States. She states that she can be "a contributing catalyst of genuine change and reform in the financial sector" and therefore satisfies the first prong of the *Dhanasar* framework, which requires a showing that a petitioner's proposed endeavor has substantial merit and national importance. The Petitioner's statement is new as it post-dates our decision dismissing her fourth motion; however, neither the brief nor the signed statement present new facts that could change the outcome of that decision. The Petitioner's claims regarding the national importance of her proposed endeavor have been presented previously and have been thoroughly addressed by our office. Because

the Petitioner has not presented new facts, supported by documentary evidence, that would warrant reopening the proceeding, the motion to reopen will be dismissed.

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). As noted above, the scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 203.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

In her brief, the Petitioner asserts that she met her burden to "furnish a job offer in the form of a statement which indicates the [noncitizen] is to be employed in the United States in a managerial or executive capacity." While the Petitioner does not provide a citation to any legal authority, we observe that she has quoted language from the regulation at 8 C.F.R. § 204.5(j)(5) which sets forth the job offer requirement applicable to petitions for multinational executives and managers filed under section 203(b)(1)(C) of the Act. As the Petitioner does not seek to be classified as a multinational executive or manager, the cited evidentiary requirement does not apply to the adjudication of her petition. She has not established that we erred by failing to weigh this evidence in evaluating whether the established the national importance of her proposed endeavor under the first prong of the *Dhanasar* framework.

To the extent that the Petitioner presents arguments regarding her eligibility for a national interest waiver, her contentions 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) ("a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior Board decision"). Although she generally claims that we erred in dismissing her appeal because we "failed to consider the totality of the evidence and ignored relevant documents," she does not identify any specific documents or other pieces of evidence that we overlooked in our appellate review of the record. Regardless, the decision before us on motion is not our appellate decision, but rather, our latest decision dismissing her fourth motion. She does not make a specific claim that our latest decision was based on an incorrect application of law or USCIS policy or that the decision was incorrect based on the record at the time we issued it. We will not re-adjudicate the petition anew and, therefore, the underlying petition will remain denied.

Although the Petitioner has submitted a new statement in support of her motion to reopen, she has not submitted new facts that warrant reopening the proceeding. 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. Because the Petitioner has not shown proper cause for reopening or reconsideration, the 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.