U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36191795

Date: JAN. 24, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a management consultant entrepreneur, 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 she merits a waiver of the job offer and labor certification requirements for EB-2 classification. We dismissed a subsequent appeal, and the Petitioner filed subsequent combined motions to reopen and reconsider, which we dismissed as untimely. The Petitioner filed combined motions to reopen and reconsider a second time, which we also dismissed. These are the Petitioner's third 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). 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

Initially, we dismissed the Petitioner's appeal of the Director's decision, concluding that the Petitioner had not established her proposed endeavor is of national importance. Next, we dismissed the Petitioner's combined motions to reopen and reconsider our decision as untimely because the motions were filed 40 days after our initial decision. In the combined motions to reopen and reconsider she submitted a second time, the Petitioner contested the correctness of our prior decision and submitted new evidence. But, we dismissed the motions because the Petitioner did not provide new facts supported by evidence to reverse or assert any error in our conclusion that the Petitioner's initial

combined motions to reopen and reconsider were not received at the location designated for filing within the allotted time period as required by 8 C.F.R. § 103.2(a)(7)(i).

These, the Petitioner's third combined motions, do not address our prior decision, but instead attempt to establish the national importance of the Petitioner's proposed endeavor, which was addressed in our dismissal of the Petitioner's appeal in this matter. Our review on motion is limited to reviewing our latest decision, which in this case is our prior dismissal of the Petitioner's second combined motion. As the Petitioner has not addressed the basis of our dismissal of the second combined motion, she has not met her burdens of proof or persuasion under 8 C.F.R. § 103.5(a)(1)(ii) and, as such, has not met the requirement of a motion to reopen or motion to reconsider. The combined motions to reopen or reconsider 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.