U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27693331

Date: AUG. 24, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks second preference 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 record did not support a waiver of the required job offer, and thus of a labor certification, would be in the national interest. We dismissed a subsequent appeal from that decision and three successive combined motions to reopen and reconsider. The matter is now before us on motion to reopen.

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 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).

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). Therefore, we will only consider new evidence to the extent that it pertains to our latest decision dismissing the motion to reopen. Here, the Petitioner has not provided new facts to establish that we erred in dismissing the prior motion.

On motion, the Petitioner submits a book titled [redacted] that she coauthored. She also submits five letters of recommendation from a selection of academics and professors. The Petitioner asserts this new evidence supports new facts that establish eligibility because they demonstrate the national importance of their proposed endeavor to serve as a historical architect.

The existence of a permanent exhibition curated by the Petitioner at the [redacted] is not a new fact. We considered information about the opening of the Islamic Food and Nutrition Council of America's [redacted] in our dismissal of the Petitioner's appeal and the Petitioner's work for its refurbishment and exhibition space in a subsequent motion. The Petitioner summarizes their book as a description of the [redacted] "permanent exhibition," the permanent exhibition's "importance to the [redacted]" and its "importance to the culture and inter-faith dialogue of the community at large." Because the Petitioner describes their book as a summary of the [redacted] "permanent exhibition," which we considered twice previously, their book is not evidence of a new fact.

And the letters the Petitioner submitted are not evidence of new facts supporting reopening these proceedings. Considered together, the letters support the Petitioner's efforts to demonstrate their eligibility for a national interest waiver. But they do not evidence any new facts that that are relevant to the issues raised on motion and that have not been previously submitted in the proceeding. They provide generalized assertions of the importance of the Petitioner's work in their field. For example, one letter writer drew on his acquaintance with the Petitioner since their "student days and [were] well aware of [the Petitioner's] competence" in their field. However, the record does not convincingly demonstrate how these are new facts casting our previous decisions in error warranting the reopening of these proceedings. Another writer outlined the Petitioner's contributions to the [redacted] which we have previously considered in prior proceedings and are therefore not new facts. Still another letter writer expresses admiration for the Petitioner's creativity, talent, and past achievements but uncovers no new facts which relate to the national importance of the Petitioner's endeavor. And whilst another author specifically identifies the fact that they will utilize the Petitioner's book as a resource in their own academic and teaching work, this fact is not relevant to an analysis of the national importance of the Petitioner's proposed endeavor. In *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), we considered teaching activities and concluded that they do not rise to the level of having national importance because they do not impact a field of endeavor more broadly than the immediate effect or influence on the cohort receiving the teaching. *See Dhanasar*, 26 I&N Dec. at 893. So to the extent there is a teaching component flowing from the Petitioner's publication of their book summarizing their work with the [redacted] that is not a new fact which would bear any relevance on an evaluation of the national importance of the Petitioner's proposed endeavor.

All parties to a matter deserve an opportunity to be heard. But once proceedings provide that fair opportunity, a strong interest exists to bring the matter to a close. *INS v. Abudu*, 485 U.S. 94, 107 (1988). The Petitioner does not provide any new material, relevant, or probative facts supported by evidence that cast our previous decision dismissing the Petitioner's motion in any doubt based on legal error.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.