U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27007872

Date: JUL. 21, 2023

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Special Immigrant Juvenile)

The Petitioner, a native and citizen of the Democratic Republic of the Congo, seeks classification as a special immigrant juvenile (SIJ) under sections 101(a)(27)(J) and 204(a)(1)(G) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1101(a)(27)(J) and 1154(a)(1)(G).

The Director of the National Benefits Center denied the petition, concluding that the Petitioner did not establish that the Family Court of the State of New York (Family Court) made a qualifying parental reunification determination or that the consent of U.S. Citizenship and Immigration Services (USCIS) was warranted. 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 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).

In our decision on the Petitioner's appeal, incorporated here by reference, we determined that she did not overcome the Director's conclusion that, due to the numerous inconsistencies in the record regarding the Petitioner's parents' identities, she had not satisfied her burden to establish her request for SIJ classification was bona fide. We also noted in our previous decision that the record contained numerous inconsistencies as to the Petitioner's place of birth, further calling into question the veracity of the documents and her related assertions. On motion to reopen, the Petitioner submits an "Acte de Naissance" that was issued to a family member of the Petitioner in December 2022. The Petitioner asserts that this new evidence proves her parentage and place of birth to establish eligibility, as it shows the petition is bona fide and warrants USCIS' consent.

However, the new "Acte de Naissance" creates an additional source of inconsistencies within the record in the Petitioner's case. She has now submitted, on various occasions and in support of different petitions for immigration benefits, multiple documents that are purportedly official government records from the Democratic Republic of the Congo documenting the identities of her parents and her place of birth. Most notably, the "Attestation de Naissance" issued in 2015, which was submitted in support of her uncle's Form I-589, Application for Asylum and Withholding of Removal, conflicts with the most recently submitted "Acte de Naissance" as to both the Petitioner's place of birth and the identities of her parents. The Petitioner has not sufficiently explained why these inconsistencies exist. She argues that the 2015 document was submitted by her uncle without her involvement. However, her explanation does not take into consideration the fact that the document created inconsistencies between both the application it was meant to support – the Form I-589 on which the Petitioner was listed as the child of her uncle – and the prior nonimmigrant visa (NIV) application also filed by her uncle on her behalf. It is unclear why the document issued closer in time to the Petitioner's birth would be erroneous and potentially inauthentic while also inconsistent with the very applications it was submitted to support. Additionally, the Petitioner's explanation about the recent acquisition of the "Acte de Naissance" is vague and not sufficient to resolve the inconsistencies that are further created by that document. She notes an unidentified relative went to [redacted] and obtained the "Acte de Naissance." It is not clear from this explanation who went to get the document nor how they were able to do so. Where numerous inconsistencies exist in the record, and the newly submitted evidence only furthers those inconsistencies, the Petitioner has not established by a preponderance of the evidence that her petition is bona fide such that USCIS' consent is warranted.

On motion to reconsider, the Petitioner contests the correctness of our prior decision. In support of the motion, the Petitioner relies on general assertions of eligibility for SIJ classification, but does not cite any specific provisions of law or policy that render our prior decision erroneous at the time it was issued.[1] She argues the "Acte de Naissance" clarifies the prior inconsistencies we addressed in our appellate decision, such that it renders her petition bona fide and warranting USCIS' consent. The Petitioner's contentions in her current motion merely reargue facts and issues we already considered in our previous decision. *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"). Her motion to reconsider does not establish that we based our last decision on an incorrect application of law or policy at the time of that decision. 8 C.F.R. § 103.5(a)(3). The motion likewise does not establish that our last decision was incorrect based on the evidence in the record of proceeding at the time of that decision. *Id.* Therefore, the underlying petition remains denied.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. On motion to reconsider, the Petitioner has not established

[1] We note the Petitioner has cited to a U.S. District Court decision as support for her argument on appeal; however, such decisions are not binding authority. *Camreta v. Greene*, 563 U.S. 692, 709 n.7 (2011) ("A decision of a federal district court judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the same judge in a different case.") (quoting 18 J. Moore, et al., MOORE'S FEDERAL PRACTICE § 134.02(1)(d), p. 134-26 (3d ed. 2011)); *see also Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993) (observing that district court decisions are not binding on the Board of Immigration Appeals).

that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, 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.