



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 28153335

Date: AUG. 1, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, a marketing manager, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability and 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 a waiver of the job offer requirement, and thus of labor certification, would serve the national interest. We dismissed a subsequent appeal. The matter is now before us on a motion to 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 motion.

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.

On motion, the Petitioner states that we did not consider all the evidence that the Petitioner had submitted with the petition and, later, in response to a request for evidence. The Petitioner asserts that “those documents were not properly analyzed by the Service, violating the Fourth Amendment of the Constitution of the United States of America.”<sup>1</sup> The Petitioner asks that we “reconsider the adverse decision and reopen [the petition] and give full consideration [to] all the submitted documents.”

The only decision properly before us on motion is our March 2023 appellate decision, not the Director’s October 2022 denial of the petition. *See* 8 C.F.R. § 103.5(a)(1)(i), which limits the available

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<sup>1</sup> The Fourth Amendment prohibits “unreasonable searches and seizures.” U.S. Const. amend. IV. The Petitioner appears to mean the Fifth Amendment, which guarantees “due process of law.” U.S. Const. amend. V.

time to file a motion to reconsider and requires that motions pertain to “the prior decision,” which in this case is our March 2023 appellate decision.

In our appellate decision, we referred to the Petitioner’s arguments and quoted from her “Professional Plan and Statement.” We observed that the Petitioner appeared to have materially changed her proposed endeavor in response to a request for evidence, and we concluded:

The Petitioner did not offer specific information and evidence to corroborate her assertions that the prospective impact of continuing her work as a marketing manager rises to the level of national importance. . . . Here, the record does not show through supporting documentation how her marketing management stands to sufficiently extend beyond the businesses that might employ her, to impact the industry or the U.S. economy more broadly at a level commensurate with national importance.

Finally, the Petitioner did not show that her initial proposed endeavor has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation.

On motion, the Petitioner does not address our specific determinations and conclusions or establish that they were in error. Instead, the Petitioner makes vague and general assertions that we disregarded unspecified evidence. Such assertions do not establish that our appellate decision was incorrect, and do not oblige us to readjudicate the appeal de novo. The Petitioner does not identify any specific documents or other pieces of evidence that we overlooked in our appellate review of the record, and the Petitioner does not explain how discussion or consideration of those materials would have changed the outcome of our March 2023 decision.

For the reasons discussed, 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. Therefore, we will dismiss the motion. 8 C.F.R. § 103.5(a)(4).

**ORDER:** The motion to reconsider is dismissed.