U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35612566

Date: APR. 10, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree or, in the alternative, as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this classification. *See* Immigration and Nationality 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 a labor certification, would be in the national interest. We dismissed both a subsequent appeal and a subsequent motion to reconsider. The matter is now before us on a second 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). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i)-(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

We incorporate by reference our analysis of the Petitioner's appeal and prior motion to reconsider. By way of summation, we determined that the record does not establish how the Petitioner's proposed endeavor of real estate and construction stands to extend sufficiently beyond his business and potential clients at a level commensurate with national importance, as required in part by the first *Dhanasar* prong. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889-90 (AAO 2016). Then, we determined that the Petitioner's motion to reconsider did not satisfy the motion to reconsider requirements at 8 C.F.R. § 103.5(a)(3).

Now, on motion to reconsider, the Petitioner reiterates the same language, verbatim, that he submitted in his briefs in support of both his appeal and his prior motion to reconsider, generally alleging an

"erroneous decision issued by the Service." The Petitioner's contentions in his current motion 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) (providing that a motion to reconsider is not a process by which a party may submit, in essence, the same brief already submitted and seek reconsideration by generally alleging error in a prior decision). Moreover, the Petitioner does not identify any particular aspect of our decision for his prior motion to reconsider with regard to which we may have misapplied an applicable law or policy, which is the scope of review for this motion. *See* 8 C.F.R. §§ 103.5(a)(1)(i)-(ii), (a)(3). Rather, because the Petitioner repeats the same language that appeared in his appeal brief, including quoting passages from the Director's decision but not addressing the substance of either of our prior decisions, he appears to contest the Director's decision again.

We acknowledge that the Petitioner also submitted documentary evidence in support of the current motion to reconsider; however, a motion to reconsider must establish that the prior decision was incorrect based on the evidence of record at the time of the decision. *See id.* Therefore, we need not address the documentary evidence the Petitioner submitted in support of the current motion to reconsider.

We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

ORDER: The motion to reconsider is dismissed.