U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37692311

Date: APR. 10, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a production engineering consultant, 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 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 Texas Service Center denied the petition, concluding the record did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed the Petitioner's appeal, as well as two subsequently filed combined motions to reopen and reconsider. The matter is now before us again on a third combined motion 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). By regulation, our review is limited to "the prior decision." 8 C.F.R. § 103.5(a)(1)(i). We must dismiss any motion that does not satisfy the relevant motion requirements. 8 C.F.R. § 103.5(a)(4). Upon review, we will dismiss the motions.

I. MOTION TO REOPEN

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We interpret "new facts" to mean those that are relevant to the issues raised on motion and that have not been previously submitted in the proceeding, which includes within the original petition. Reasserting previously stated facts or resubmitting previously provided evidence does not constitute the submission of "new facts."

On motion, the Petitioner submits a brief, a copy of our prior decision dismissing his motions, a copy of the Director's denial of his petition, and two articles discussing the importance of industrial engineering and its professionals to further support his claimed eligibility for a national interest waiver. While one of the articles is new to the record, the Petitioner has not presented new facts to establish that we erred in our last decision.

As noted above, 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, which in this case is our dismissal of the Petitioner's second combined motion. In that decision, we reviewed the Petitioner's assertions and other industry articles submitted with the motion, but again emphasized that, while these generalized articles may demonstrate the importance of the field, they did not show his specific endeavor would meet the national importance requirement of *Dhanasar's* first prong. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016) ("The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national proposes to undertake.").

With his current motion, the Petitioner again submits industry articles discussing the importance of the industrial engineering field and its professionals. However, he does not explain how these two industry articles reveal facts that could be considered *new*, rather than cumulative information, under 8 C.F.R. § 103.5(a)(2) or how these documents otherwise overcome our prior dismissal. Because the Petitioner has not established new facts relevant to our most recent decision that would warrant reopening of the proceeding, his motion to reopen will be dismissed.

II. MOTION TO RECONSIDER

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).

On motion, the Petitioner claims "previous issues were not properly addressed" and that "past decisions were made with [a] certain level of inconsistency when evaluating the evidence of record." However, beyond these vague assertions, the Petitioner has not specifically explained what issues were not properly addressed or what inconsistencies were observed in our prior decision. Instead, the Petitioner's motion repeats virtually verbatim the same arguments submitted with his prior motion and other filings and raises issues that we already addressed.

The purpose of a motion to reconsider is to show error in the most recent prior decision, not to adjudicate the petition anew. *See, e.g.*, *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (finding that a motion to reconsider is not a process by which the party may submit, in essence, the same brief and seek reconsideration by generally alleging error in the prior decision). Simply disagreeing with an adverse decision is not sufficient to meet the requirements of a motion to reconsider under 8 C.F.R. § 103.5(a)(3). Rather, the motion 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 at the time we issued our decision. Since the Petitioner has not met these requirements, the motion must be dismissed.

III. CONCLUSION

The Petitioner has not established new facts relevant to our latest decision that would warrant reopening of the proceedings, nor has he shown that we erred as a matter of law or USCIS policy. Consequently, we have no basis for reopening or reconsideration of our decision. 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.