U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36186534

Date: APR. 23, 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, 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 that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal. The matter is now before us on 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.

In our decision dismissing the appeal, we agreed with the Director that the Petitioner did not meet the first and second prongs of the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). We explained that the Petitioner had not demonstrated the national importance of his proposed endeavor and that he was well positioned to advance it. Specifically, we stated that he did not establish his proposed endeavor has broader implications in the aviation industry, has significant potential to employ U.S. workers, or has other substantial positive economic effects indicating national importance. In addition, we concluded that the Petitioner's January 2024 professional personal statement, position at his current company, and expert opinion letter were insufficient to show that he was well positioned to advance his proposed endeavor.

On motion, the Petitioner asserts that he "disagrees with the Texas Director's decision and is filing this motion to request a reconsideration of the decision." The only decision properly before us on motion is our latest decision dismissing his appeal, and not the Texas Service Center Director's decision denying the petition. 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). The Petitioner's contentions on motion reargue facts and issues we have already considered in our appellate 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").

Regarding the national importance of his proposed endeavor under *Dhanasar's* first prong, the Petitioner repeats his earlier argument that "[t]he field of aircraft manufacturing holds national importance to the United States due to its critical contributions across economic, defense, technological in strategic sectors." We indicated in our appellate decision that the determination of national importance does not focus on the overall importance of the aviation industry in general, but "focuses on the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. We explained that the Petitioner had not shown the potential prospective impact of his specific proposed endeavor of working for an aviation company or business as a mechanic or technician. The Petitioner does not explain how our discussion relating to the national importance of his endeavor was erroneous.

The Petitioner's motion includes a "Professional Plan" relating to his work as an aircraft interior technician, but this document does not demonstrate how the potential prospective impact of his proposed endeavor stands to offer broader implications in his industry or to generate substantial positive economic effects for our nation. Nor does the "Professional Plan" offer new information or facts to overcome the stated grounds for dismissal in our appellate decision.

With respect to being well positioned to advance the proposed endeavor under *Dhanasar's* second prong, the Petitioner repeats earlier claims relating to his skills and work experience in the aviation industry. He provides photographs of his work and an October 2024 letter from his current employer discussing his work overseeing the removal and reinstallation of aircraft interiors, but he does not articulate how our appellate determination relating to prong two of the *Dhanasar* framework was based on an incorrect application of law or USCIS policy.

On motion to reconsider, the Petitioner has not shown that our appellate decision erred in concluding he did not meet *Dhanasar's* first and second prongs.[1] He has not established that our decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.

[1] Since these two determinations were dispositive of his appeal, our appellate decision reserved determination of the Petitioner's eligibility under the third prong of the *Dhanasar* framework. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).