U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37933137

Date: APR. 25, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks second preference immigrant classification, as well as a national interest waiver of the job offer requirement attached to this EB-2 immigrant classification. *See* Immigration and Nationality Act section 203(b)(2), 8 U.S.C. § 1153(b)(2).

Service Center Operations denied the petition. We summarily dismissed the Petitioner's appeal. We then dismissed four subsequent motions. The matter is before us again on a combined motion to reopen and 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 combined motion.

We incorporate by reference our analysis in our prior decisions. For brevity, and in relevant part, we dismissed the Petitioner's most recent prior combined motion as untimely because the designated filing location received it more than 33 days after the date on which we mailed the preceding decision. 8 C.F.R. §§ 103.2(a)(7)(i), 103.5(a)(1), 103.8(b).

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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 consider new facts only to the extent that they pertain to our latest decision, dismissing the most recent prior combined motion as untimely. Here, the Petitioner has not provided new facts to establish that we erred in dismissing the prior combined motion as untimely. Because the Petitioner has not established new facts that would warrant reopening the proceeding, we have no basis to reopen our prior decision.

In turn, 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). Again, because the scope of a motion is limited to the prior decision, we will review only the latest decision in these proceedings. 8 C.F.R. §§ 103.5(a)(1)(i)-(ii). The Petitioner asserts that his current motion provides "expanded arguments that directly address USCIS's concerns in the previous decision." However, contrary to the

Petitioner's statement, the current motion does not address the untimeliness of his most recent prior combined motion, which is the concern addressed in the immediately preceding decision. The Petitioner's current motion to reconsider does not identify a law or policy we may have misapplied in our decision determining that his most recent prior combined motion was untimely, which is the scope of review for this motion to reconsider. *See id.* We will not re-adjudicate the petition anew; therefore, the underlying petition remains denied.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.