U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36920692

Date: APR. 29, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a manager in the trucking industry, 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 classification. See section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner had not established a waiver of the required job offer, and thus of the labor certification, would be in the national interest. SCOPS then dismissed two combined motions to reopen and to reconsider. We dismissed the subsequent appeal and also combined motions to reopen and to reconsider. The matter is now before us on combined motions to reopen and to reconsider for a second time.

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 motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.[1]

We dismissed the prior combined motions because the Petitioner did not raise new facts supported by documentary evidence and reiterated arguments already addressed in our appeal decision. On combined motions, the Petitioner expanded the scope of his proposed endeavor from providing consulting and training services to businesses in the trucking industry to revitalizing the trucking and automotive industries by addressing inefficiencies, developing a skilled workforce, and driving sustainable economic growth in underserved regions. He also submits a brief and additional evidence, including a new business plan, an industry report, and documents on the Small Business Act (SBA),

[1] See Matter of Coelho, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

General Agreement on Trade in Services (GATS), and U.S. government executive orders in support of his claimed eligibility for a national interest waiver.

With respect to the motion to reopen, the Petitioner's new business plan and supporting evidence do not cure the issues raised in our appeal decision to establish his eligibility. For example, the Petitioner's new business plan contains economic projections and tax payment and staffing level estimates significantly higher than previously represented in the original business plan. But, like the original business plan, it still does not provide how the Petitioner came by these projections, which are uncorroborated in the record. The Petitioner also has not demonstrated how this data would be significant or beneficial to the regional or national economy to reach the level of "substantial positive economic effects" contemplated by Dhanasar. Matter of Dhanasar, 26 I&N Dec. 884, 890 (AAO 2016) (discussing that the significant potential to employ U.S. workers, particularly in an economically depressed area, and other substantial positive economic effects as indicative of national importance). The Petitioner also has not established that his proposed consulting and training services would extend beyond individual trainees or clients to impact the trucking and automotive industries more broadly. See id. at 889 (providing "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field"). Further, the Petitioner continues to assert that his proposed endeavor encompasses a comprehensive range of services tailored to the unique needs of the trucking, and now automotive sectors, and will generate revenue through the provision of high-quality consulting services and professional training programs. However, the Petitioner has not demonstrated how his processes and approaches would improve those already existing to demonstrate national or even global implications for the industry. See id. at 889 (discussing improved manufacturing processes or medical advances as examples of national or even global implications within a particular field). Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established his eligibility. Because the Petitioner has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision.

Further, on motion to reconsider, the Petitioner does not raise issue with our analysis of the evidence present at the time of the decision and therefore has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision.

For these reasons, the combined motion to reopen and to reconsider 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.