U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33420321

Date: AUG. 19, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a cyber security professional, seeks employment-based second preference (EB-2) immigrant classification 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 (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 did not establish that he warranted a waiver of the job offer and labor certification requirements for EB-2 classification. 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). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

In our prior decision, incorporated here by reference, we determined that the Petitioner had not provided sufficient evidence to establish the nature of his proposed endeavor or that it would have the economic, cultural or industry wide impacts required to establish the first prong of *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016).

On motion, the Petitioner argues that he provided a comprehensive overview of his proposed endeavor and that his work as a cyber security professional is nationally important because cybercrime poses a significant threat to the economy and national security. The Petitioner further states that the shortage in qualified cyber security professionals further illustrates how his work is nationally important. However, shortages in qualified workers are directly addressed by the U.S. Department of Labor

through the labor certification process and is not a consideration for the national importance of a proposed endeavor.

The Petitioner asserts that he will work in cyber security, generally, but does not identify whether he will work for a specific company, university, training center, cyber security firm, government entity, or whether he will start his own consulting firm. Rather, he reiterates that cyber security is an important national issue and that his expertise could help to mitigate the risk of cyber-attacks. It is not enough to assert that the Petitioner's work is nationally important. He must demonstrate through independent, objective evidence that his proposed endeavor will have the claimed economic effects. As the Petitioner has not identified a specific client or clients or provided details on how his specific work would affect the economy or national security, he has not met his burden to establish that his work rises to the level of national importance.

We noted in *Dhanasar* that "we look for broader implications" of the proposed endeavor and that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890. Although the Petitioner recounts the value and importance of cyber security and its general impact on the economy, *Dhanasar* requires us to focus on the "the specific endeavor that the foreign national proposes to undertake," not the importance of the field, industry, or profession in which the individual will work. *Id.* at 889.

On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. As the Petitioner has not identified a specific endeavor beyond working in cyber security, generally, he has not provided a direct evidentiary tie between his proposed endeavor and the claimed economic, cultural, or industry wide impacts necessary to establish national importance. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.