U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33553016

Date: AUG. 29, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a teacher, seeks employment-based second preference (EB-2) classification as a member of the professions holding an advance 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 Nebraska Service Center denied the petition, concluding the Petitioner had not established 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 a 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.

In dismissing the appeal, we agreed with the Director that the Petitioner did not establish his proposed endeavor satisfied the first prong under *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). Specifically, we concluded the Petitioner did not describe a specific, proposed endeavor in the United States other than seeking to enter the workforce as a teacher and that the record did not establish that the Petitioner's teaching activities have the potential to extend beyond his students at a level commensurate with national importance. We explained that "in *Matter of Dhanasar*, we specifically determined that the petitioner's teaching activities did not rise to the level of national importance because they would not extend beyond his students to impact his field more broadly. *Id*. at 893." We also noted the Petitioner did not support his assertion that the Director's decision was arbitrary, capricious, and unwarranted with specificity as to the Director's findings, the relevant legal framework, or the evidence in the record and that the Petitioner did not identify any specific erroneous conclusion of law or statements of fact in the decision.

A motion to reconsider must state the reasons for reconsideration; be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy; and establish that the decision was incorrect based on the evidence in the record 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,

the April 2024 dismissal of the Petitioner's appeal. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner contends "the entirety of the adjudicative record contains both specific and genera[l] erroneous conclusion of law and statements of fact." In addition, the Petitioner states we were incorrect in "stating the Director's decision analyzed the evidence of record consistent with the precedent decision of *Dhanasar*" and then proceeds to discuss the Director's decision from August 2023. The Petitioner also reiterates portions of the USCIS Policy Manual and our decision in *Matter of Dhanasar* where the issue of national importance is addressed, arguing that "the proposed endeavor (providing necessary medicine and related education to underserved communities through telehealth innovations such as direct to consumer telepharmacy consulting work) has already been" shown to have "realized and prospective impact which enables and strengthens the national agenda." However, this is the first mention of medicine and related education. Further, the Petitioner asks that we perform "a plenary review of the documentation of record," even though we conducted a de novo review during the appeal process.

Here, the Petitioner generally disagrees with our conclusions without demonstrating how we erred as a matter of law or policy. *See 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). In our appellate decision, we explained the Petitioner did not address or overcome the Director's specific findings regarding the insufficiency of the evidence and that the Petitioner simply claimed in his appeal brief that teaching English is an important profession, that he is qualified to do it, and that he merits a waiver of the job offer requirement in the national interest. Again, simply disagreeing with our conclusions without showing how we misapplied law or pointing to policy that contradicts our analysis of the evidence, is not sufficient to reconsider our decision.

Because the Petitioner did not demonstrate that we erroneously applied law or policy in dismissing his appeal, the Petitioner has not established that his motion satisfies the requirements for a motion to reconsider under 8 C.F.R. § 103.5(a)(3). Therefore, we will dismiss the motion.

ORDER: The motion to reconsider is dismissed.