U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35079863

Date: DEC. 03, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks 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 Nebraska Service Center denied the petition. The Director then dismissed two subsequent combined motions to reopen and reconsider because they did not present new facts, supported by documentary evidence, nor did they identify a law or policy that was incorrectly applied to the evidence in the record. We dismissed a subsequent appeal because the Petitioner did not establish the national importance of the proposed endeavor in accordance with *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), which provides the framework for adjudicating national interest waiver petitions. The matter is now before us 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 motion.

A motion that does not satisfy the applicable requirements must be dismissed. 8 C.F.R. § 103.5(a)(4). The scope of any motion is limited to review of "the prior decision." *See* 8 C.F.R. § 103.5(a)(1)(i).

A motion to reopen affords a petitioner an opportunity to state new relevant facts, which must be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). On motion to reopen, the Petitioner generally reiterates his claimed qualifications for a national interest waiver as a member of the professions holding an advanced degree, and he resubmits evidence offered in support of his previous appeal, which we considered in dismissing it. Since the current motion to reopen does not include new facts or new evidence, the motion does not meet the requirements of a motion to reopen and must be dismissed.

A motion to reconsider must establish that our prior decision was 1) based on an incorrect application of law or policy, and 2) incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). On motion, the Petitioner again contends that he qualifies for a national

interest waiver as a member of the professions holding an advanced degree. He reiterates identical arguments made in support of his previous appeal, while requesting a different outcome. We addressed the Petitioner's prior arguments in our earlier decision, and his repetition of the same arguments does not show proper cause for reconsideration. *Matter of O-S-G-*, 24 I&N Dec. 56 (BIA 2006). The purpose of a motion to reconsider is to show error in the most recent prior decision. This motion to reconsider does not meet this standard and must be dismissed.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.