U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35077844

Date: DEC. 6, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a retired police colonel and risk management auditor, 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* 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 had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal, and the matter is now before us on combined motions to reopen and 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 motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

In our prior decision, which we incorporate here, we determined that the Petitioner's endeavor did not establish it has national importance because the record did not indicate that it would result in significant contributions to the field either economically or in the development of important contributions to the standards for risk management auditing. Further, although the Petitioner would provide services in Business Alliance for Secure Commerce (BASC), an endeavor of substantial merit, he did not demonstrate that the benefits of his services would extend beyond his clientele on a national level.

On motion, the Petitioner submits industry articles regarding the importance of BASC and coordination of supply chains and he reiterates the importance of the endeavor to national security. These articles are similar to those submitted in the initial filing and on appeal. The Petitioner asserts

that this information establishes his eligibility for the national interest waiver, but as in our assessment of the evidence on appeal, these submissions discuss the industry as a whole and do not specifically address the Petitioner's proposed endeavor, or how the proposed endeavor would enhance the industry. The Petitioner's submission on motion does not overcome our prior conclusion that he has not established the national importance of his proposed endeavor to qualify for a national interest waiver. The motion to reopen is therefore dismissed as the Petitioner has not met the requirements of such a motion pursuant to 8 C.F.R. § 103.5(a)(4).

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 the motion to reconsider, the Petitioner contests the correctness of our prior decision. He asserts that the analysis regarding national importance failed to consider the interconnectedness of the supply chain and how BASC standards play a critical role in the fight against transnational crime. While agreeing the endeavor has substantial merit, the record does not detail the effect of the Petitioner's work on a national level other than to explain that BASC and the implementation of security standards are critically important to the supply chain. On appeal, we clarified that although the endeavor would provide benefits to individual entities, the record lacks details as to any contributions to the BASC standards, improved cooperation between security agencies, or an in-depth analysis of the benefits to the economy that would be produced from improved security in the supply chain.

The Petitioner's motion does not explain how our decision was incorrect according to the *Dhanasar* analysis. The Petitioner claims that our dismissal did not properly evaluate the evidence under the teaching analysis discussed in *Dhanasar* and asserts this prong of the analysis is not applicable in his case. However, he does not specify or explain how an alternate analysis would have established his eligibility. Further, the assertion that the dismissal focused on a lack of direct references in the articles submitted is a mischaracterization of the decision. The dismissal indicated that these articles demonstrated the importance of the field in general, but failed to detail how the endeavor would impact this area of work. Disagreements with our conclusions without showing that we erred as a matter of law or pointing to policy that contradicts our analysis of the evidence is not a ground to reconsider our decision. *See e.g., Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006). The Petitioner's motion does not meet the applicable requirements of a motion to reconsider because he does not establish that our decision was based on an incorrect application of law or policy. *See* 8 C.F.R. § 103.5(a)(3).

The Petitioner has not established new facts relevant to our appellate decision that would warrant reopening of the proceedings, nor has he shown that we erred as a matter of law or USCIS policy. Consequently, we have no basis for reopening or reconsideration of our decision. Accordingly, the motions 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.